

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

July 1, 2008

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No. 07-30456  
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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

EARNEST McCRAY, JR., also known as Ernest McCray,

Defendant-Appellant.

\_\_\_\_\_  
Appeal from the United States District Court for the  
Western District of Louisiana  
5:06-CR-50126-1  
\_\_\_\_\_

Before HIGGINBOTHAM, DAVIS, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

In this appeal, the defendant challenges his conviction and sentence entered pursuant to a guilty plea. The defendant asks this court to vacate his plea and remand the case to the district court so that he can re-plead and also reserve the right to file a motion to suppress evidence obtained during a search of his home.

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\* Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Because the government does not object to this motion and based upon our review of the record, we conclude that it is appropriate that we grant this motion.

Accordingly, IT IS ORDERED that McCray's conviction and sentence are VACATED and this case is REMANDED to the district court to enable the defendant to re-plead and reserving to the defendant the right to file a motion to suppress evidence seized during a search of his home.

VACATED and REMANDED.